

Table of Contents: Chapter 6 – Approvals

Chapter 6 – Approvals	2
6.1 Approval Requirements	2
6.2 Authorized Approvers	4
6.2.1 State-Level Approvers	4
6.2.2 Agency-Level Approvers	4
6.2.3 Grant Security	5
6.3 Electronic Signatures/Approvals	5
6.4 Approval Thresholds	6
6.5 Special Approvals	8
6.5.1 Technology Purchases	10
6.5.2 Individual Consultants	11
6.5.3 Insurance	14
6.5.4 Communications	15
6.5.5 Microfilm and Imaging	15
6.5.6 Proposed Architectural, Structural, Electrical, and Mechanical Plans, Specifications, and Cost Estimates	15
6.5.7 Capital Improvements	15
6.5.8 Vehicles Purchased for State Use	16
6.5.9 Special Counsel	16
6.5.10 Postage Equipment	16
6.5.11 Advanced Planning and Real Property Acquisition Fund	16
6.6 Intergovernmental Voucher Approvals	17

Chapter 6 – Approvals

The State's Approvals policy delineates approvals necessary to process and record transactions in FSF. Approval requirements and thresholds have been established by the DOA to promote accurate, efficient, and transparent transaction processing by all State Agencies.

6.1 Approval Requirements

All accounting transactions require **standard** approval(s) for processing, unless specifically stated otherwise in the Budget and Accounting Policy Manual. Standard approvals can include both Agency and State level approvals, based on the dollar amount of a transaction. In addition to standard approvals, transactions may require **special** approvals. Special approvals are required for various commodity purchases, such as:

- Computers
- Telephone Equipment
- Vehicles
- Postage Equipment
- Insurance
- Imaging Services
- Individual Consultants
- Purchases Coded to Bond Accounts
- Expenditures from the Advanced Planning and Real property Acquisition Fund

Special approval requirements are specific to the type of item or service being purchased or by the transaction type. Agency Business Managers are responsible for determining which type(s) of approvals are needed for each transaction (See **Section 6.4**).

Transaction approvals are processed and recorded electronically in FSF, except for a few instances where manual hardcopy (or facsimile) signatures are required. Manual transactions are recorded in FSF after all approvals have been obtained outside of the electronic system.

DOA has identified the appropriate transaction approval methods (electronic vs. manual), based on transaction type, as follows (a complete listing of all State forms for these transactions can be found at <http://extranet.fsf.state.de.us/forms.shtml>):

Budget and Accounting Transaction Processing Requirements				
Transaction Name	Trans. ABBR	Electronic/ Manual	Form(s) Required	Form Location
Capital Asset Addition	ADD	Electronic/ Manual	AM Change Request – for Manual Add / Modification Only	Extranet
Capital Asset Transfer	TRF	Electronic	None	
Capital Asset Disposal	RET	Electronic	ERI or Surplus Excess Property Form	OMB's GSS Surplus Services / Extranet
Capital Asset Modification		Manual	AM Change Request Form	Extranet
Capital Asset Adjustment	ADJ	Electronic	No	
Voucher/PO Voucher	PV	Electronic	No	
AP Journal Voucher	AP JV	Electronic	No	
Reversal Voucher	RV	Electronic		
Payment Cancellation	CX	Manual	Yes	Extranet
Payroll Check Cancellation	PX	Manual and Electronic processes	Yes	PHRST
Intergovernmental Voucher	IV	Electronic	No	
Intergovernmental Voucher Transfer	IVT	Electronic	No	
Budget Transfer	TR	Manual and Electronic processes	Yes	OMB or Agencies (depending upon ledger group)
			No	
Budget Journal	JN	Manual and Electronic processes	Yes	OMB or Agencies (depending upon ledger group)
			No	
Journal Entry	JE	Electronic	No	
Cash Receipt	CR	Electronic	No	
Zero-Balance CR	ZBCR	Electronic	No	
Negative Cash Receipt	NCR	Electronic	No	
Refund on Prepay	RP	Electronic	No	
Billing Invoice	BI	Electronic	No	
Treasury Journal	TJ	Electronic	Yes	FSF- Generated
Requisition	RQ	Electronic	No	
Purchase Order	PO	Electronic	No	
Change Order	CO	Electronic	No	
Receiver	RV	Electronic	No	
Return to Vendor	RTV	Electronic	Yes	
Federal Aid Master	FM	Manual	No	OMB
Single Point of Contact	SPOC	Electronic	Yes	FSF- Generated
Federal Change	FC	Electronic	No	
Payroll Funding Adjustment	PFA	Electronic	No	

6.2 Authorized Approvers

Transaction approvals are entered into the State's financial and accounting management system at both the State and Agency levels.

6.2.1 State-Level Approvers

State-level and special approvers include:

- DOA;
- DOF;
- OMB;
- DTI;
- CGO; and
- OST

6.2.2 Agency-Level Approvers

Only Agency Department Heads are authorized to confer approval authority to Agency personnel. Four (4) approval profiles are at the Agency level: (* designates required approval.)

- Manager 1;
- Manager 2;
- Internal Accountant* (IA)
- Business Manager * (BM)

Agencies may set their own internal approval requirements, but all transactions require, at a minimum, the approval of the Agency's Internal Accountant + Business Manager for proper processing in FSF. Systematically the IA and BM are required approvers. Manager 1 and Manager 2 are optional approvers depending on the size and scope of the Organization. **Agencies are required to keep an updated list of authorized approvers on file with DOF at all times.** The State maintains three separate Signature Designee for Approving Transactions forms; one for State employees, one for non-State employees and one for Head of Agency. The authorization of non-State employees to approve transactions must be justified by the Agency Head or a Cabinet Secretary. The form is also approved by FSF Manager and Director of DOA. The authorization of Head of Agency to approve transactions must be justified by the Agency and then approved by the FSF Manager and Director of DOA.

Business Managers are entrusted with the authority to commit an Agency to a purchase and to approve transactions at the Agency level. Business Managers are only allowed to approve transactions that originate in and are on behalf of their own Agencies.

Business Managers are required to process transactions according to the policies and protocols set by DOA. Business Managers are also expected to follow individual Agency practices, with the understanding that all federal and State legal and regulatory requirements must be met, and the authority of the State's policies and procedures supersedes the authority of Agency directives.

Business Managers need to correctly recognize and direct transactions for proper processing as part of the transaction review and approval process. In addition to determining transaction type and approval requirements, Business Managers need to check for correct amounts and account coding strings before giving their approval for the transaction.

Internal Accounting approvers are entrusted with the authority to approve transactions at the Agency level. Internal Accounting approvers are only allowed to approve transactions that originate in and are on behalf of their own Agencies. The Internal Accounting approver can imitate transactions which will self-approve when submitted into workflow, providing they have the required security.

6.2.3 Grant Security

Grant Security utilizes delivered functionality within the proposal component by business unit. When a draft proposal is submitted, the system sends a worklist item to the designated reviewers and/or approvers. The proposal can either be approved or sent back for more information until the proposal is assigned a status of approved.

Grant Security will include the following project roles:

- Principal Investigator = PI
- OMB Federal Aid Coordinator = OFAC
- OMB Clearinghouse Administrator = OCA
- Department Fiscal Contact = DFC

Effective January 1, 2014, all Organizations will be required to support the Grant Security. Organizations can submit a request to FSF to eliminate the Department Fiscal Contact, due to lack of staffing. The proposal component will track/record internal approvals and will be maintained by proposal/contract.

6.3 Electronic Signatures/Approvals

Delaware enacted its Uniform Electronic Transaction Act (UETA) (**6 Del. C. §12A**), in July 2000 to provide the framework for the creation and validation of electronic signatures. Under UETA, electronic signatures are considered legal and valid approval signatures for transactions processed electronically in FSF for all governmental Agencies.

NOTE: Not all transactions are required to be processed electronically. DOF has identified the appropriate approval method (electronic or manual) for each transaction. Agencies should refer to the Budget and Accounting Transaction Processing Requirement Table in **Section 6.1**, for more information about electronic and manual processing requirements.

An electronic approval granted, submitted, and recorded in FSF is legally binding and acceptable as a signature of record for the transaction. In cases where manual (hardcopy) signatures are used to authorize transactions, the hardcopy signature is the legally binding and acceptable record for the transaction.

Agencies are required to maintain on file with the Secretary of Finance a current listing of those employees with electronic signatory/approval authority on behalf of the Agency. Each State Agency is also required to maintain and document a system of internal controls in place within the Agency to guard against fraud, waste, and misappropriation or misuse of State, federal, and custodial funds and assets, including explicit guidelines regarding approval authority.

All electronic transactions evidenced in FSF must be archived in compliance with State retention schedules and policies, as disseminated by Delaware Public Archives, of the Department of State. Transactions that are manually approved, external to FSF, require a hardcopy of the transaction with all designated signatures to remain on file for document retention and audit purposes.

Additional security, restrictions, documentation, approvals, and retention requirements may be implemented at the Agency level, but not to the extent they countermand or undermine the electronic approval processes delineated in this Manual.

Agencies should refer to **Title 6 Del. C. §12A**, <http://delcode.delaware.gov/title6/c012a/index.shtml>, for further information about the scope and applicability of Delaware's UETA.

6.4 Approval Thresholds

The approvals outlined in this section represent minimal approval requirements required by the State for transactions processing. Individual Agencies may require additional internal Agency approvals for transactions, prior to State-level processing. Business Managers are responsible for ensuring all transactions meet both Agency and State approval requirements for transactions processing.

For more information about State Special Approvals for commodity purchases, Agencies should refer to **Section 6.5**.

Approval Thresholds			
Transaction Amount	Transaction Type	Workflow Path	Comments
≤\$5000	Standard Approvals only	Agency Internal Accountant + Business Manager	
≤ \$5000	Special Approval(s) Required	Agency Internal Accountant + Business Manager + State Special Approver(s)	
> \$5000	Standard Approvals only	Agency Internal Accountant + Business Manager + DOA	
> \$5000	Special Approval(s) Required	Agency Internal Accountant + Business Manager + State Special Approver(s) + DOA	
≤ \$10,000	Standard Approvals only	Agency Internal Accountant + Business Manager + DOA	Payments equal to or greater than \$50,000 must be scheduled through DOA
≤ \$10,000	Special Approval(s) Required	Agency Internal Accountant + Business Manager + State Special Approver(s) + DOA	Payments equal to or greater than \$50,000 must be scheduled through DOA
> \$10,000	Standard Approvals	Agency Internal Accountant + Business Manager + OMB Approver + DOA	Payments equal to or greater than \$50,000 must be scheduled through DOA
> \$10,000	Special Approval(s) Required	Agency Internal Accountant + Business Manager + State Special Approver(s) + OMB + DOA	Payments equal to or greater than \$50,000 must be scheduled through DOA

Transaction Approvals			
Transaction Amount	Transaction Type	Minimum Approvals Required	Comments
All	Change Orders	Agency Internal Accountant + Business Manager + DOA + all approvals required for initial PO	Only if the total purchase order value is greater than \$5000.
All	Check Cancellations	Agency Internal Accountant + Business Manager + OST + DOA	
All	Open Order POs	Agency Internal Accountant + Business Manager + OMB + DOA	
All	Budget Journals	Agency Internal Accountant + Business Manager + OMB	
All	GF and ASF Transfers	Agency Internal Accountant + Business Manager + OMB + OCG	
All	NSF Transfers	Agency Internal Accountant + Business Manager	For Grants -- Transfers over \$5000 or over 10% of a total grant value require approval from the Grantor
All	Bond-Coded Purchases (Fund 300)	Agency Internal Accountant + Business Manager + OMB + DOA	Applies to Req's, PO's, Direct Claim Vouchers, P-Card and IV's

Purchases associated with Public Works contracts and/or Professional Services contracts must follow the State's contract bidding and award requirements, in addition to the above approvals. For more contract and bidding information, Agencies should refer to OMB's GSS website <http://gss.omb.delaware.gov/default.shtml>.

Unless stated otherwise in this policy Manual, the above approval requirements may only be waived with the expressed written permission of the Secretary of Finance. To request a waiver, Agencies should refer to Chapter 7 – Purchasing, **Section 7.4.1**. In cases of emergency, Agencies should contact the Secretary of Finance or his/her designee.

6.5 Special Approvals

Certain purchases of goods and services and various State contracts require State special approvals. The following table lists the purchase types subject to these additional approvals and the appropriate approving body.

Special Approvals – Commodity Purchases and Contracts		
Item	Special Approver(s)	Comments
Insurance	State Insurance Coverage Office of the Office of Management and Budget (18 Del. C. §6508 and §6509)	For ALL insurance Requisitions, POs, or Direct Claims. Approval not needed for Higher and Public Education if not expending GF monies.
Communications	Division of Communications of the Department of Safety and Homeland Security.	Covers purchases of two-way (voice and radio) equipment
Information Technology	Department of Technology and Information's Internal Technology Investment Council	Approval of project plan required, approval not needed for individual POs. Exceptions: Hardware and Software support/maintenance renewals; additional software licenses; PC/desktop equipment replacements; Minor enhancements (up to 70 hrs or \$10,000; daily operational supplies (e.g., paper stock, ink, etc.); on-demand repair services; IT-related training/education.
Microfilm and Imaging Services	Delaware Public Archives of the Department of State (29 Del. C. §515(a), (b))	
Proposed Architectural, Structural, Electrical and Mechanical Plans, Specifications, and Cost Estimates	Office of Management and Budget, Facilities Management	Prior to contract execution. Exceptions: highway construction and reconstruction; school district minor capital improvements.
Capital Improvements	Office of Management and Budget	For all POs, Change Orders, and Direct Claims coded to Bond Accounts, Exceptions: Highway and School – Minor Capital. School-Minor Capital transactions require approval of DOE, School Plant Maintenance.
Vehicles Purchased for State Use	Director of the Office of Management and Budget (29 Del. C. §6906(a))	Must purchase using contracts administered by the Fleet Management Administrator, or bid lists approved by the Director, OMB. Includes transfers from one department/school district to another.
Contractual Services with individuals	DOA	See Section 6.5.2 – Individual Consultants.
Special Counsel	Attorney General and Governor	
Postage Equipment	Office of Management and Budget, Government Support Services	Does not include postage stamp purchases.
Advanced Planning and Real Property Acquisition Fund	Director, Office of Management and Budget and Budget Commission	See Section 6.5.11 – Advanced Planning and Real Property Acquisition Fund
Printing and Copier Equipment	Office of Management and Budget, Government Support Services	29 Del. C. §6308A(i)
Relocation Assistance	Office of Management and Budget	Available on the OMB HRM website at: http://www.delawarepersonnel.com/policies .

Additional Requirements for Special Approvals

6.5.1 Technology Purchases

No new technology purchases and projects may be initiated unless covered by a formal project plan approved by DTI (**29 Del. C. §9006C**). DTI procurements include hardware, software, and communications equipment, including telephone systems.

The State's Chief Information Officer (CIO) has established DTI's Internal Technology Investment Council (iTIC) to review and recommend IT procurements. The iTIC, through the business case process, reviews all proposed plans with specific consideration given to the proposed project's feasibility, risk, suitability, and its overall compliance with stated and de facto technical standards and guidelines.

Exceptions to the iTIC review process include:

- Hardware maintenance (support contract) renewals;
- Software support/maintenance contract renewals, including arrangements with third-party contractors who provide continuing application support services;
- Additional software licenses. Software product must already be in production use. Product may not be identified as "Declining", "Discontinued", or "Disallowed" on the applicable standards listing as supplied by the Technology and Architecture Standards Committee (TASC);
- PC/desktop equipment replacements. The iTIC should be made aware of bulk or department-wide PC replenishments;
- Minor application/system/infrastructure enhancement activities. A minor enhancement activity is defined as up to 70 person-hours of effort or a cost up to \$10,000;
- Daily operational components, including:
 - Supplies to support IT operations (e.g., paper stock, preprinted forms, ink cartridges, tape cartridges, etc.);
 - Spare parts for equipment supporting day-to-day operations (e.g., memory, hard drives, monitors, etc.);
 - On-demand repair services to operational equipment; and
 - IT-related training/education, unless it is directly related to a project that requires a Business Case review.

Agencies should refer to DTI's web page for the most current exception list and any additional information regarding the business case process at <http://dti.delaware.gov/contact.shtml>.

6.5.2 Individual Consultants

There are legal distinctions and ramifications between retaining a consultant and hiring an employee. For example, the State incurs liabilities for withholding and/or the payment of State, Federal, and Local income taxes, OASDI and Medicare, workers compensation, unemployment compensation, and pension for employees.

To ensure the State does not incur any liability for these employment costs, the State, from time to time, hires consultants to perform various activities. Special care must be exercised to distinguish between a "consultant" and an "employee" prior to executing any contract for services with prospective consultants.

DOA reviews prospective consulting contracts using the IRS 20-Factor Test (common-law control test) to determine whether an employer/employee relationship will exist. Generally, an employer/employee relationship exists when the employer has the right to control. Control of the workplace is met when the employer determines when the employee works, where he works, and how he works. Control does not need to be exercised for an employer/employee relationship to exist – the right to control is sufficient.

A. Policy:

Human Resources, Payroll, and Fiscal representatives must correctly classify workers who provide services to their Agency. The status of a worker as either an independent contractor or employee must be determined accurately to ensure the worker and the State meet tax obligations in a timely and accurate manner. The State withholds income taxes, withholds and pays OASDI and Medicare taxes, and pays unemployment taxes on wages paid to an employee. The State does not make tax payments on behalf of independent contractors. Therefore, due diligence must be applied when hiring individuals to ensure workers are appropriately classified.

When the IRS determines a worker has been misclassified as a contractor, the employer is responsible for the employer and employee shares of OASDI and Medicare and may also incur penalties in the form of fines and interest for each instance the worker was paid incorrectly.

B. IRS Regulations

The IRS may submit an inquiry for a worker who receives both a W-2 and a 1099 from the same employer.

C. State of Delaware Policy

The *State of Delaware* is **one** employer, paying employees at Merit Agencies, School Districts, and Higher Education facilities.

An employee who has separated from State service may not be hired as an independent contractor within two years of separation. Exceptions may be made if the services being provided are not related to the field of former State employment and subjected to review by the Delaware Public Integrity Commission (DEPIC).

D. Definitions:

Contractor –an individual hired to do a specific task with little or no direction from Agency. The **worker has the control** over how the job will be accomplished. Contract includes language of when and how payment for services will be made.

Employee – an individual hired to do a specific task with direction from the employer on when and how the task is to be performed and when and how payment for services is made.

E. IRS Worker Classification Test:

Common Law Test – focuses on the “right to control” which is grouped into three factors. No one factor stands alone, all must be considered:

- *Behavioral Control* – the right to direct and control the details and means by which the worker performs the work to be done; to the extent of instructions given regarding how, when and where to do the work; what tools and equipment to use; what assistants to hire to help with the work; where to purchase supplies and services; and any training provided about required procedures and methods.
- *Financial Control* – the right to direct and control the economic aspects of the worker’s job; whether business expenses are reimbursed; if there is a significant investment in the work; how the worker is paid; whether the worker incurs a profit or a loss; and whether services are offered to public.
- *Relationship of the Parties* – looks at such things as are there written agreements; are employee benefits offered; the length of the relationship; and the importance of the services to the regular operations of the Agency.

For additional information, Agencies should refer to *Publication 1779, Independent Contractor or Employee ...* a publication of the Internal Revenue Service.

Reasonable Basis Test – this test takes court decisions, IRS rulings, past IRS audits, and longstanding industry practices into account.

20-Factor Test – provides 20 criteria to determine if the employer has the right to control. This test is included in the Budget and Accounting Policy Manual in **Exhibit A at the end of this chapter**.

Form SS-8, Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding. A Form SS-8 determination may be requested only in order to resolve federal tax matters. The IRS does not issue a determination letter for proposed transactions or on hypothetical situations.

F. Procedure:

Prior to awarding a bid, or hiring a contractor, these steps must be followed:

- Determine if the worker is currently employed by or has previously been employed by the State of Delaware.
 - Agency HR representative must search the PHRST system by Social Security Number to determine if an employee relationship exists.
 - If the worker is a State employee, ask the following questions:
 1. Is the employee relationship and the contractor relationship the same?
 - If yes, the worker must be hired as an employee
 - If no, the worker may be hired as a contractor
 2. Does the independent contractor have a valid business license?
 - If yes, obtain a copy.
 - If no, Agencies should refer to the State of Delaware One Stop Business Registration and Licensing web site, <https://onestop.delaware.gov/osbrlpublic/Home.jsp>.
 - If the worker terminated State employment within the past two years, contact the DEPIC for a ruling.
- Apply the Common Law Test.
 - Look at the entire relationship and the length of the relationship.
 - Consider the degree or extent of the right to direct and control.
 - Consider written agreements and how important the services to operations.
- Document each of the factors used in making determination.
- Is the work being contracted substantially different from the work performed as an employee of the state?
- Complete Form SS-8, if classification is still unclear.

G. Additional Considerations:

The following questions can help Agencies determine if an individual is an employee or a contractor:

1. What services are performed?
2. Are these services essential to the Agency?
3. Is there a written contract between the worker and the Agency?
4. Is there a written contract between the worker and the State?
5. Who directs and controls the details of how the work is to be performed?
6. Does the worker have a current business license?

H. Supporting Documents:

May 15, 2008, PHRST Memorandum #08-02 *Worker Classification Compliance – Employee vs. Contractor, 1099 Misc Issued for Tax Year 2007*

The Delaware Public Integrity Commission:

- 410 Federal Street, Suite 3, Dover, DE 19901, 302-739-2399
- www.deplic.delaware.gov
- Ethics Bulletin 007, Post Employment
- Ethics Brochure, Promoting Ethics in Delaware

American Payroll Association – *Payroll Source* (Sec. 1: The Employer-Employee Relationship)

IRS Pub 15-A, *Employer's Supplemental Tax Guide* (www.irs.gov)

State of Delaware, Office of the Budget, *Budget and Accounting Policy* (<http://budget.delaware.gov/accounting-manual>)

6.5.3 Insurance

The Insurance Coverage Office of OMB, has the centralized responsibility for the operation of the State Insurance Coverage Program. **No other Agency is authorized to place any insurance.** This approval is required for all insurance-related requisitions, purchase orders, and direct claim transactions. This approval is not needed for insurance payments for Higher Education and DOE, if State General Fund monies are not expended.

6.5.4 Communications

All State government communications purchases must be in accordance with policies and procedures established by the Division of Communications, of the Department of Safety and Homeland Security. Requests for purchases for all two-way equipment (voice and radio) must be made to the Division Manager, Division of State Communications.

6.5.5 Microfilm and Imaging

No microfilm or imaging project or program may be undertaken or maintained without the prior written approval of the Delaware Public Archives of the Department of State, except as may be authorized directly through an Agency's General Fund appropriation. Any such programs or projects in operation must adhere to standards established by the Delaware Public Archives, of the Department of State, to allow for approval of expenditures (**29 Del. C. §515(a), (b)**). Any program or function of any Agency requiring microfilm or imaging services must purchase the services through the Central Microfilm Services Unit, including all programs or functions funded by federal funds, other special funds, or local government funds.

6.5.6 Proposed Architectural, Structural, Electrical, and Mechanical Plans, Specifications, and Cost Estimates

All State Agencies, Delaware State University, and Delaware Technical and Community College must submit all proposed contracts for architectural services and all architectural, structural, electrical, and mechanical plans, specifications, and cost estimates to OMB's Facilities Management.

The OMB Facilities Management section is responsible for reviewing and approving such proposed contracts, plans, specifications, and cost estimates prior to bid advertisement. **No contracts for construction or reconstruction projects will be executed without the prior approval of OMB**, except highway construction and reconstruction contracts and school district minor capital improvements contracts (**29 Del. C. §7419(a)**).

6.5.7 Capital Improvements

All requisitions, purchase orders, change orders, and direct claim vouchers coded to bond accounts (other than Highway and School – Minor Capital) must be sent to OMB for approval prior to processing by DOA. Requisitions, purchase orders, change orders, and direct claim vouchers coded to School – Minor Capital require the approval of DOE – School Plant maintenance. Charter school requisitions, purchase orders, change orders and direct claim vouchers coded to School – Minor Capital do not require the approval of

DOE because these funds may be used for current operations, minor capital improvements, debt service payments or tuition payments (**14 Del. C. § 509 (g)**).

NOTE: Purchases of material or work paid from General Fund appropriations do not require approval from OMB, except as noted in this Manual.

6.5.8 Vehicles Purchased for State Use

All passenger vehicles purchased for State use must be purchased through contracts administered by OMB's GSS. All purchases must be approved by the Director of OMB (**29 Del. C. §6906(a)**). No vehicle owned by the State may be transferred from one Agency/department/school district to another without the prior approval of the OMB Director (**29 Del. C. §6906(e)**).

6.5.9 Special Counsel

No Agency may employ any person to act as an attorney to such Agency, except as noted in this Manual (**29 Del. C. §2507**). Agencies may employ special counsel with the prior approval of the Attorney General and the Governor, under the terms and conditions that the Attorney General and Governor may prescribe. Any special counsel appointed by the Attorney General and the Governor will have powers, duties, and responsibilities as designated by the Attorney General and **29 Del. C. §2504**. Payment of the expenses associated with the employment of special counsel is to be paid by the State Treasurer from general funds approved by the Attorney General and Governor.

6.5.10 Postage Equipment

Requisitions, purchase orders, change orders, and direct claim vouchers for the purchase of postage machines and meters need the approval of OMB's GSS. The make and model number of the equipment must be included in the description block of the transaction. All purchases over \$5,000 also require the approval of DOA.

NOTE: Purchases of postage stamps do not require this special approval.

6.5.11 Advanced Planning and Real Property Acquisition Fund

The Advanced Planning and Real Property Acquisition Fund (the Fund) may be expended for:

1. The advanced planning of proposed facilities in the State, including, but not limited to, the cost of architectural sketches; general site plans; preliminary engineering; general design services; legal, accounting, and consulting services; or other such services as may be deemed appropriate **(29 Del. C. §6343(c))**.
2. Earnest money of up to 10 percent for the acquisition of real property (including any improvements thereon) by State Agencies **(29 Del. C. §6343(d))**.

NOTE: The Fund may not be expended for highway right-of-way construction.

Before any sum is withdrawn from the Fund, Agencies must submit a request to erect a State facility or a request to acquire real property to the OMB Director. The OMB Director will report to the Budget Commission whether the request is consistent with the capital program provided for by **29 Del. C. §6344(a)**.

- If the request is to erect a State facility, the OMB Director must determine that the proposed facility is consistent with the capital program and that the facility is likely to be authorized in the foreseeable future **(29 Del. C. §6344(b))**.
- If the request is to acquire real property, the OMB Director must determine that the proposed real property acquisition is consistent with the capital program, or with OMB's long-range planning recommendations for the State **(29 Del. C. §6344(c))**.

Any funds provided by the Budget Commission that are not used by the Agency within 36 months will be refunded to the Budget Commission and deposited in the Fund **(29 Del. C. §6345)**.

Upon the funding of a capital project for which monies have been provided from the Fund, a refund will be made to the Fund by the State Treasurer from the appropriation made or other source of funds provided for the facility or real property **(29 Del. C. §6346(a))**.

6.6 Intergovernmental Voucher Approvals

The following policies are in effect regarding approvals for Intergovernmental Vouchers (IVs):

IV Vouchers with an origin of Manual Intergovernmental Voucher (MIV) require one approval by both the Buyer and Seller Agency, by an individual with the Business Manager role.

IV Vouchers with an origin of Automated Intergovernmental Voucher (AIV) are created with the Seller's line approved. They require only one other approval by the Buyer Agency, by an individual with the Business Manager role.

Billing should be made on a monthly basis utilizing one form for each Agency from which goods or services are being provided. An exception will be made in the month of June when billing may be on a weekly basis. This will facilitate a timely year-end close-out.

Exhibit A

The IRS 20 Factor Test:

Workers are generally employees if they:

1. Must comply with the employer's instructions about when, where, and how to work.
2. Receive training from or at the direction of the employer. This may include having to work along with an experienced employee or having to attend meetings.
3. Provide services that are integrated into the business. That is, the success or continuation of the employer's business depends significantly on the performance of certain services which the worker provides.
4. Perform the work personally.
5. Hire, supervise, and pay assistants for the employer.
6. Have a continuing relationship with the employer. This may exist where work is performed at frequently recurring, although irregular, intervals.
7. Must follow set hours of work.
8. Work full-time for the employer.
9. Do their work in a sequence set by the employer.
10. Must do their work in a sequence set by the employer.
11. Must submit regular oral or written reports to the employer.
12. Receive payments of regular amounts at set intervals.
13. Receive payment for business and/or traveling expenses.
14. Rely on the employer to furnish tools and materials.
15. Lack a significant investment in facilities used to perform the service.
16. Cannot make a profit or suffer a loss from their services.
17. Work for one employer at a time.
18. Do not offer their services to the general public.
19. Can be fired by the employer.
20. May quit work at any time without liability.